

Unless delivery of materials is proved within six months of filing of the claim, there can be no lien. *Wilson v. Wilson*, 51 Md. 160; *Ortwine v. Caskey*, 43 Md. 138.

Claim held to have been filed in time. *German, etc., Church v. Heise*, 44 Md. 476; *Baker v. Winter*, 15 Md. 10. *Cf. Maryland Brick Co. v. Dunkerly*, 85 Md. 211; *Jean v. Wilson*, 38 Md. 298.

A claim held defective because it failed to show that work charged and materials referred to in two items had been performed and furnished within the six months. *Wix v. Bowling*, 120 Md. 267.

#### Generally.

A claim will not be allowed where it is proven that certain materials were furnished merely for purpose of extending time within which claim might be filed. *Heath v. Tyler*, 44 Md. 317. And see *Greenway v. Turner*, 4 Md. 305.

Evidence insufficient to bring claim within requirements of this section; no proof that plaintiff sold materials to defendant and held him responsible for the debt. *Alter v. Eckhardt*, 143 Md. 664.

The claimant is entitled to interest from the time his claim is filed. *Hensel v. Johnson*, 94 Md. 737; *German, etc., Church v. Heise*, 44 Md. 472.

After expiration of time within which lien may be filed, claim as filed cannot be amended so as to change location of property. *Gault v. Wittman*, 34 Md. 36.

A lien claimant has an insurable interest in a building prior to filing of his claim under this section. *Franklin Ins. Co. v. Coates*, 14 Md. 296; *Sodini v. Winter*, 32 Md. 133. Cited but not construed in *McLaughlin v. Reinhart*, 54 Md. 76.

This section referred to—see notes to sec. 11. *Caltrider v. Weant*, 147 Md. 343.

See secs. 11 and 17 and notes.

An. Code, 1924, sec. 24. 1912, sec. 24. 1904, sec. 24. 1888, sec. 24. 1838, ch. 205, sec. 14. 1868, ch. 23. 1939, ch. 754, sec. 24.

**24.** The proceedings to recover the amount of any lien under this article, whether upon a house, machine, wharf, bridge, boat or vessel, shall be by bill in equity and the same proceedings shall be had as used by the courts of equity to enforce other liens and the court shall decree a sale and appoint a trustee to make sale thereof and shall apportion the proceeds of such sale among the persons entitled to liens according to their respective rights.<sup>1</sup>

Whether one or the other course pointed out by this section to enforce the lien is adopted, the claim as filed is the foundation, and recovery is dependent upon a substantial compliance with the law. *Wehr v. Shryock*, 55 Md. 337.

In view of this section and sec. 14, the fact that the plaintiff's claim is less than twenty dollars is immaterial. *Watts v. Whittington*, 48 Md. 357.

<sup>1</sup>Secs. 25 to 35 of 1924 Code repealed by ch. 754, Act of 1939 and these notes relate to these sections as contained in said Code:

**25.** Proceedings for enforcement of mechanics' liens are exclusively *in rem*; effect thereof. The court need not determine whether party named as owner in the claim as filed is real owner. *Shryock v. Hensel*, 95 Md. 626. And see *Kelly v. Gilbert*, 78 Md. 438; *Miller v. Barroll*, 14 Md. 183; *Carson v. White*, 6 Gill, 25. *Cf. McKim v. Mason*, 3 Md. Ch. 212. And see *Long Contracting Co. v. Albert*, 116 Md. 114; *Caltrider v. Isberg*, 148 Md. 667.

Independent of act of 1898, ch. 457, a husband should be made a party defendant to a bill in equity to enforce mechanics' lien against wife. *Clark v. Boorman*, 89 Md. 430. Cited in *Parker v. Morgan*, 170 Md. 13.

For case involving enforcement of a lien by sureties, who guaranteed against liens, see *German, etc., Church v. Heise*, 44 Md. 476. See also *Pinning v. Skipper*, 71 Md. 351. Cited but not construed in *Ortwine v. Caskey*, 43 Md. 136.

**26.** Where a claim is filed for separate amounts against two different buildings, two sums should not be blended in writ and a lien for whole claimed on each building. *Plummer v. Eckenrode*, 50 Md. 234.

An action under this section is not a suit for debt or damage, but a proceeding *in rem*. *Miller v. Barroll*, 14 Md. 184. And see *Shryock v. Hensel*, 95 Md. 626.

The *sci. fa.* notifies the defendant and gives him an opportunity of showing cause against enforcing the lien. *Kees v. Kerney*, 5 Md. 422.

**28.** Where the *sci. fa.* is issued against certain parties only, and notice required by sec. 29 is not given, judgments recovered cannot affect rights of third persons having liens. *McKim v. Mason*, 3 Md. Ch. 210.

This section must be strictly complied with by the sheriff, and his return must show a full compliance. *Plummer v. Eckenrode*, 50 Md. 232.

**30.** Where a claim is filed for separate amounts against two different buildings, the two sums should not be blended in the writ and a lien for the whole claimed on each building. *Plummer v. Eckenrode*, 50 Md. 234.